

Investigation by the Department of Telecommunications and Energy on its own motion into Competitive Market Initiatives.)))))	D.T.E. 01-54 Phase I
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These steps are reasonable and should have a positive impact on retail competition. Indeed, indications are that more customers are now switching to competitive suppliers.

In addition, in order to assist competitive suppliers, WMECO indicated it would expand its customer list to include Standard Offer service customers. Further, WMECO stated that it agreed with the Department's proposal in its June 29 Order under which additional, extensive, customer-sensitive data would be provided to competitive suppliers upon the affirmative authorization of a customer, using the successful procedure already in place. Finally, interested parties should continue to discuss and resolve the technical aspects of the timing and procedure by which data is disseminated by distribution companies to competitive suppliers.

WMECO's balanced approach relating to confidentiality and data transfer is warranted for another reason not extensively discussed at the July 24 technical session. The creation of retail electricity markets in Massachusetts is dependent upon more important issues than data transfer. The pricing of Standard Offer and Default Service are key elements in any market formation. As the Consumer Advocate states in its comments, if other market elements were present it would not matter how much assistance was provided to competitive suppliers. In a vibrant market competitive suppliers "would buy lists of names of addresses through various commercial sources and widely advertise their offerings. In the truly competitive cellular telephone market, for example, companies spend millions on daily ads in major newspapers, billboards in every metropolitan area, and on TV and radio." (Comments, p. *11). The current level of information being

provided to competitive suppliers may be entirely sufficient to support retail competition once other important factors fall into place.

In distinction to the common sense approach adopted by WMECO (and also generally adopted by NStar and MECO), others advocated much more radical approaches that can be categorized into two groups. At one extreme were the parties advocating the wholesale disclosure of a customer's sensitive information without the customer's consent through Opt-Out plans. This group of commenters also favors assigning distribution companies very significant responsibilities with regard to: (a) the data to be provided, and (b) the accompanying need to educate customers. In fact, it may not be too great an exaggeration to say that these parties would like to make aiding competitive suppliers as important an activity of distribution companies as operating a reliable distribution system pursuant to the Department's service quality standards.³ This is not an appropriate role for WMECO and WMECO should not serve as the intermediary between customers and competitive suppliers.

Among other proposals suggested by this group of commenters, distribution companies would be responsible for maintaining a proliferation of lists. In addition to the lists already provided there would be an Opt-Out List for a considerable amount of data, and an Opt-In list for interval data (*see, e.g.*, Competitive Supplier comments, pp. *7-11). A host of new computer/internet

³ In fact, in D.T.E. 99-84, the Department's investigation to establish service quality standards for electric and gas companies, a competitive supplier group, with many of the same members of the present Competitive Suppliers, advocated tying distribution company revenues to the number of customers that could be pushed to a competitive energy supplier. December 3, 1999 comments of the Retail Market Participants in D.T.E. 99-84, p. 3 *et seq.* The Department rejected any such service quality standard in its Order on June 29, 2001.

services would be required to facilitate the use of these lists. *Id.* In addition, distribution customer service personnel would have to be trained to provide information in ways specified by competitive suppliers. DOER comments, p. *8. Further, distribution companies would be responsible for a barrage of customer education efforts to attempt to make consumers aware of the new system. DOER Comments, pp. *7-10. In short, the distribution companies would be the source of unlimited ‘free’ services for the benefit of for-profit competitive supply companies. For the reasons discussed above and in WMECO’s initial comments, strongly urges the Department not to adopt these proposals.

On the other side of the spectrum from those advocating a massive transfer of proprietary information to competitive suppliers is the Attorney General and the Consumer Advocate. Both have expressed grave concerns that the Department acted too hastily in ordering the release of customers’ names, addresses and rate class information to competitive suppliers. According to these parties, the Department has not adequately addressed customer privacy issues and should rethink or reverse the dissemination of data already effected. The Consumer Advocate further stated its strong opposition to the release of customer billing history on anything other than an opt-in basis.

WMECO understands the concerns of the Attorney General and the Consumer Advocate, but the Department has taken measured steps that are appropriate. It would be counter-productive now to attempt to roll-back the treatment of customer names, addresses and rate class data.

II. WMECO’S RESPONSES TO SPECIFIC COMMENTS

WMECO will not address each of the points raised by commenting parties on August 10th . WMECO will comment on a few of the points raised.

A. DOER Comments

1. Customer Lists

The DOER makes recommendations on the content of information to be included on customer lists. DOER comments, p. *10. This information has been obtained from a Uniform Business Practices (“UBP”) report but it is taken out of context in the sense that the UBP report does not support providing the customer data on a list (the UBP report indicates the validity of customer lists would have to be resolved elsewhere). The information that the DOER states should be on a list is actually the information that could be provided to a competitive supplier upon an affirmative authorization of a customer, on a per customer basis. As the UBP indicates, it is the responsibility of the competitive supplier to obtain the authorization from the customer. The method of data transfer is an electronic transaction similar to the current method of providing usage history.

2. Customer Education

DOER proposed substantial customer education efforts in its comments. Comments, pp. *7-10. Although WMECO agrees that further customer education is warranted once the Department resolves how it wishes to proceed, the program proposed by DOER places responsibility for the entire customer education process on the distribution company.

WMECO believes that that the Electric Utility Restructuring Act (“Act”) provides guidance on customer education efforts relating to retail competition.

The Act makes DOER responsible for activities to assist consumers in understanding and evaluating customers' rights and choices with respect to retail electricity supplies and related services offered as a benefit of restructuring.

G.L. c. 25A, § 11D. Section 11D also sets forth the procedure for customer education efforts. That procedure should be followed, especially for a customer education effort of the magnitude proposed here.

Further, in any customer education plan, there are elements of DOER's plan for which WMECO (and other distribution companies) should not be responsible.

- (1) WMECO should not be responsible for promoting or explaining competitive suppliers' offerings through its customer service representatives. It is inappropriate to place this burden on customer service representative now but it will even more inappropriate if the marketplace becomes as dynamic as expected, with competitive suppliers constantly changing offerings to meet customers' needs and market expectations. In addition, WMECO has a competitive affiliate and answering questions about this affiliate may lead to Code of Conduct problems.
- (2) WMECO should not be responsible for tracking competitive suppliers offering services in other distribution companies' service territories. This type of central role is currently being filled by the Department's Website. The information could also be made available on DOER's Website or through its toll-free number.
- (3) WMECO should not be responsible for the logistics of a customer education program. Any logistics that need to be developed should fall within the purview of the Customer Education Advisory Task Force so that all distribution companies are going forward in a consistent manner.
- (4) WMECO should not be responsible for including identifying numbers on any list provided. Currently, the only unique identification number used by WMECO is the customer's account number. Providing this as a customer identification number would be an invitation for the competitive supplier to 'slam' the customer. The customer account number is used in EBT enrollment and history request transactions so that the distribution company and the Department could be assured that the supplier had gotten this information directly from the

customer, avoiding any possibility of slamming. Development of a further customer identification number apart from the customer account number would be extremely costly to implement for WMECO.

B. Competitive Suppliers

WMECO takes issue with several of the statements and/or proposals of the Competitive Suppliers.

1. The Massachusetts System is Working

The Competitive Suppliers are eager to demean the Massachusetts system as “seriously flawed,” while talking up the terrific results in jurisdictions where, it is said, competitive suppliers have easy access to much more customer data. Competitive Suppliers comments, pp. *3-5. First, the Massachusetts restructuring system has worked well, particularly in comparison with other states, and customers have saved money. Second, even if other states have a comprehensive plan that works for them, it does not mean that one element of it would work in Massachusetts. Our experience in participating in the UBP meetings is that the manner in which customer list systems were developed were more complicated than portrayed by the Competitive Suppliers. Third, it is not clear how smoothly systems in other states are working for customers (in Ohio, for example). Northeast Utilities’ experience in Connecticut has shown considerable misunderstandings by the customer of Opt-Out plans and significant operational impact on the distribution company (e.g., the effort involved in coding all the accounts and creating the information technology infrastructure to support the lists). In addition, even with a very large educational effort by the state of Connecticut it is apparent that many customers still do not ‘get it.’

2. Data Delivery Is Not Free

The Competitive Suppliers speak as if data delivery is free, especially when delivered over the Internet. This is absolutely incorrect. Providing data often requires a substantial amount of time and effort and this can be particularly true with the programming and hardware costs of providing data on a Website. It is also worth noting that the Competitive Suppliers refer to a modest fee for interval data as a barrier to competition. WMECO does not believe the existing fee is a barrier and, apparently, neither did the Department when it approved WMECO's Interval Load Data Services tariff, M.D.T.E. No. 1038A, on July 13, 2001.

3. Credit Information

At one point, the Competitive Suppliers appear to indicate that credit information is not needed but they then turn around and advocate, as one supplier did at the technical session, that distribution companies should provide a list of those customers not more than 30 days in arrears. Competitive Suppliers comments, pp. *7, 12-13. WMECO addressed this point in its initial comments and strongly objects to providing credit information to suppliers, particularly in the manner proposed by the Competitive Suppliers.

D. Attorney General

WMECO respects the Attorney General's position on customer notification but urges the Department to exercise a great deal of caution with respect to special mailings as requested by the Attorney General. Comments, pp. *2-3. In particular, the Attorney General advocates a special mailing to customers to notify them of their ability to opt-out of the non-proprietary names, addresses

and customer class information. Such a mailing is likely to cause confusion and special mailings are more expensive than other means of communication. Any mailing should be part of a coordinated customer education process.

III. CONCLUSION

WMECO requests that the Department consider the above reply comments in its deliberations regarding competitive market initiatives.

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